

STATE OF MICHIGAN
COURT OF APPEALS

In re I. SCOTT, Minor.

UNPUBLISHED

May 26, 2015

No. 324812

Berrien Circuit Court

Family Division

LC No. 2013-000056-NA

Before: DONOFRIO, P.J., and O'CONNELL and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent-mother appeals as of right the November 4, 2014, order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist). We affirm.

A trial court must terminate a respondent's parental rights if it finds that (1) a statutory ground under MCL 712A.19b(3) has been established by clear and convincing evidence and (2) a preponderance of the evidence establishes that that termination is in the children's best interests. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). Respondent, on appeal, challenges the trial court's finding that a statutory ground existed to terminate her parental rights and the trial court's finding that termination was in the child's best interests.

I. STATUTORY GROUND

"This Court reviews for clear error the trial court's factual findings and ultimate determinations on the statutory grounds for termination." *Id.* at 709. "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011).

MCL 712A.19b(3)(c)(i) provides for termination where "[t]he parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds . . . [t]he conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age." Here, respondent's substance abuse, and poor parenting skills led to adjudication in May 2013.

With respect to substance abuse, when the minor child entered care in May 2013, respondent had been taking methadone for several years, and she was told to wean herself off of

it. However, the evidence shows that respondent continued to take methadone during the proceedings. While the methadone use was discontinued while she was in jail, she resumed taking it once she was released less than one month before the termination hearing. Additionally, during the pendency of the proceedings, respondent was charged with possession of marijuana and driving with a blood-alcohol content in excess of the allowable amount.

Respondent continued to have contact with her boyfriend during the proceeding despite her concern at the beginning of the proceeding that he had sexually abused the minor child. Respondent's unsupervised visits were stopped after the minor child began demonstrating increased sexualized behaviors and reporting that she saw "daddy," which is what she called the boyfriend, during the visits.

With respect to parenting skills, respondent was lodged in jail and unable to attend parenting times for a period of time, which made the minor child very upset and angry. At the time of termination, the minor child was concerned about respondent's wellbeing and had assumed a parenting role, which was likely the result of respondent's poor parenting.

"[T]he totality of the evidence amply supports" the conclusion that respondent "had not accomplished any meaningful change" in the conditions that led to adjudication. *In re Williams*, 286 Mich App 253, 272; 779 NW2d 286 (2009). There is no indication on the record that respondent would rectify the conditions within a reasonable time considering the age of the minor child. During the proceeding, respondent was dishonest, was unwilling to put the needs of the minor child first, and continued to use substances. At the time of termination, the case had been open for 17 months. The minor child was four years old. She had emotional issues, had already been in care once before, and required permanency. The trial court did not clearly err in finding that termination of respondent's parental rights was proper pursuant to MCL 712A.19b(3)(c)(i).

II. BEST INTERESTS

We review the trial court's best interest determination according to the same clear error standard used in reviewing the trial court's decision regarding the statutory grounds for termination. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

"In deciding whether termination is in a child's best interests, the court may consider the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *Id.* at 41-42 (citations omitted). The trial court may also look at evidence that the child is not safe with the parent, is thriving in foster care, and that the foster care home can provide stability and permanency. *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011).

Here, the minor child did not have an appropriate parent-child bond with respondent. In July 2010, she was removed from respondent's care after she was born with methadone in her system. Less than one year after the minor child was returned to respondent's care and the case was closed, she was removed again because of poor parenting skills and substance use. During the proceeding, the minor child demonstrated sexualized behavior and required therapy. Nonetheless, respondent continued to have contact with the boyfriend, who she had accused of

sexually abusing the minor child, and exposed the minor child to him during unsupervised parenting times. At the time of termination, the four-year-old minor child was attending therapy once each week, and she was having emotional difficulties because respondent was unable to attend parenting times because of her criminality. Although the record supports that there were “positive feelings of love” between the minor child and respondent, it also supports that the minor child was anxious and believed that respondent did not love her. The minor child was also unable to develop properly because she was overly concerned about respondent’s wellbeing. At the time of termination, the minor child looked to the foster parents as parental figures. Further, because respondent had not rectified her issues with substance abuse, we find that the minor child would not be safe in her care. See *id.*

At the time of termination, the minor child had been in foster care for a majority of her life. She had emotional issues as a result of trauma, and she required permanency and stability in order to develop properly. See *In re Olive/Metts*, 297 Mich App at 41-42. Respondent was unable to provide this at the time of termination, and there is no indication that she would be able to provide it in the future given her lack of commitment during the proceeding. The minor child was placed in the same foster home for the duration of the proceeding, and it was described as a healthy, “extremely stable” environment where the minor child had a whole family unit. During the proceeding, the minor child made “quite a bit of progress” in therapy, and her sexualized behaviors had diminished “significantly.” The minor child was bonded to the foster family, and the foster parents wished to adopt her. See *id.* The trial court did not clearly err in finding that a preponderance of the evidence established that termination of respondent’s parental rights was in the minor child’s best interests.

Affirmed.

/s/ Pat M. Donofrio
/s/ Peter D. O’Connell
/s/ Amy Ronayne Krause